

1 Prober & Raphael, A Law Corporation
2 Dean R. Prober, Esquire, #106207
3 Lee S. Raphael, Esquire #180030
4 Cassandra J. Richey, Esquire #155721
5 Melissa A. Vermillion, Esquire #241354
6 Joseph Garibyan, Esquire #271833
7 Bonni S. Mantovani, Esquire #106353
8 Anna Landa, Esquire #276607
9 Halie L. Leonard, Esquire #265111
10 P.O. Box 4365
11 Woodland Hills, CA 91365-4365
12 (818) 227-0100
13 (818) 227-0101 facsimile
14 cmartin@pralc.com
15 N.102-758.NF

Attorneys for Movant The Bank of New York Mellon fka The Bank of New York as successor to
JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG Pass-Through
Cert, Series 2006-AR4

UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

In re	)	Bk. No. 11-46365
)	
DAISY TAN PARRISH,	)	CHAPTER 13
)	
Debtor.	)	R.S. No. LSR – 823
)	
	)	MOTION FOR RELIEF FROM
	)	<u>AUTOMATIC STAY</u>
)	
	)	Hearing-
	)	Date : December 10, 2014
	)	Time : 9:30 AM
	)	Place : U.S. Bankruptcy Court
	)	1300 Clay Street, 2nd Floor
	)	Oakland, CA
	)	Courtroom 220

The Bank of New York Mellon fka The Bank of New York as successor to
JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG Pass-Through

1 Cert, Series 2006-AR4, a holder in due course, its assignees and/or successors, move the Court for
2 relief from the Automatic Stay provided by 11 U.S.C. §362. This motion seeks an Order
3 terminating the Automatic Stay of 11 U.S.C. §362 as to moving party (and the Trustee under the
4 Deed of Trust securing moving party's claim) so that moving party (and its Trustee) may commence
5 and continue all acts necessary to foreclose under the Deed of Trust secured by Debtor's property
6 located at **324 Amber Avenue, Vallejo, California 94589**.

7 This Motion is brought pursuant to 11 U.S.C. §362(d)(1) for "cause" and due to the
8 failure of Debtor to make required payments as set forth in the Declaration, attached hereto and
9 incorporated herein by reference.

10 Nationstar Mortgage LLC servicer for The Bank of New York Mellon fka The Bank
11 of New York as successor to JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-
12 AR4, MTG Pass-Through Cert, Series 2006-AR4 has the right to foreclose by virtue of being the
13 holder and/or owner of the note.

14 Debtor's failure to make required payments provides "cause" for relief from the
15 Automatic Stay in accordance with the ruling of the Bankruptcy Appellate Panel in In re: Ellis, 60
16 B.R. 432.

17 In addition, and in the event that this Court continues the Automatic Stay, Movant
18 will seek adequate protection of its secured interest pursuant to 11 U.S.C. §§361 and 362, including
19 a requirement that Debtor reinstates all past arrearages and immediately commence regular monthly
20 payments.

21 Movant alleges that the commercially reasonable value of the subject Property is
22 approximately \$177,000.00, as evidenced by Debtor's Schedules A and D filed with this Court, a
23 copy of which is attached hereto and made a part hereof. Movant requests that this Court take
24 judicial notice of the aforementioned Schedules pursuant to Federal Rule of Evidence Section 201.

25 Movant also seeks an Order terminating and vacating the Automatic Stay for all
26 purposes as it pertains to Movant's interest in the subject real Property, including the prosecution of
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1 appropriate foreclosure remedies, without the requirement of further notice or publication, except as
2 may be required by state law.

3 Furthermore, Movant seeks attorneys' fees and costs incurred in bringing this
4 Motion. Movant requests such fees pursuant to the Contract securing Movant's claim or pursuant to
5 11 U.S.C. §506(b). Post-petition attorneys' fees and costs for the within motion may be added to
6 the outstanding balance of the subject Note, pursuant to Travelers Casualty v. Pacific Gas and
7 Electric Co., 549 U.S. 443 (2007), and as allowed under applicable non-bankruptcy law.

8 In addition, Movant requests such further relief as is just.

9 This Movant also seeks an Order waiving the 14-day stay described by Bankruptcy
10 Rule 4001(a)(3).

11 This Motion shall be based on these moving papers, as well as the attached
12 Declaration.

13 Responsive pleadings, points and authorities and declarations are not required, but
14 may be filed, pursuant to Bankruptcy Local Rule 4001-1(f).

15 In the event neither Debtor, the Debtor's Counsel or the Trustee appears at a hearing
16 on this motion, the Court may grant relief from the Automatic Stay permitting moving party to
17 foreclose on the Debtor's property located at **324 Amber Avenue, Vallejo, California 94589** and
18 obtain possession of such property without further hearing.

19 WHEREFORE, Movant prays judgment as follows:

20 1.) For an Order granting relief from the Automatic Stay, permitting this Movant to
21 move ahead with foreclosure proceedings under Movant's Deed of Trust.

22 2.) For such Order regarding adequate protection of Movant's interest as this Court
23 deems proper.

24 3.) For attorneys' fees and costs for suit incurred herein.

25 4.) For an Order waiving the 14-day stay described by Bankruptcy Rule 4001(a)(3).

26 5.) For an Order that, in addition to foreclosure, permits activity necessary to obtain
27 possession of said collateral; therefore, The Bank of New York Mellon fka The Bank of New York
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1 as successor to JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG
2 Pass-Through Cert, Series 2006-AR4 is permitted to engage in loss mitigation activity, including
3 short payoff, short sale and the obtaining of a deed-in-lieu of foreclosure including authorization to
4 negotiate inferior liens. The Bank of New York Mellon fka The Bank of New York as successor to
5 JPMorgan Chase Bank, N.A., as Trustee for Holders of SAMI II 2006-AR4, MTG Pass-Through
6 Cert, Series 2006-AR4 is further permitted to send information regarding these loss mitigation
7 options directly to the debtor.

8 6.) For such other relief as this Court deems appropriate.

9 PROBER & RAPHAEL, A LAW CORPORATION

10 DATED: 11/5/2014

11 By /s/ Melissa A. Vermillion
12 MELISSA A. VERMILLION, #241354
13 Attorney for Movant
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